IN THE HIGH COURT OF JUDICATURE

ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE J.CHELAMESWAR

and
THE HON'BLE MR JUSTICE M.VENKATESWARA REDDY

WRIT PETITION NO : 21201 of 2005

Dated: 28th September 2005.

Between:

M/s. NCL Alltek & Seccolor Limited .. Petitioner

AND

The Commercial Tax Officer,

Nampally Circle, Hyderabad and

two others .. Respondents

ORDER : (per JC,J)

The petitioner is a registered dealer (limited company) on the rolls of the 1st respondent under Andhra Pradesh General Sales Tax Act, 1957 and also Central Sales Tax Act, 1956. It is engaged in the business of manufacture of pre-painted steel-sections. Some of the consignments sold by the petitioner were taxed at the rate of 4% by the 1st respondent under an assessment order dated 15.11.2001. Subsequently, the 2nd respondent issued a show-cause notice dated 16.3.2005 proposing to revise the assessment and classify the goods attracting a higher rate of tax at 10%. After hearing the objections of the petitioner, the assessment was revised by an order dated 27.5.2005. Aggrieved by the same, the petitioner preferred an appeal before the Sales Tax Appellate Tribunal on 25.7.2005 and along with the appeal, the petitioner filed a stay application seeking stay of payment of disputed tax. The said application was rejected by an order dated 12.9.2005. In view of the rejection of the stay application, the 1st respondent issued a notice dated 21.9.2005 to the petitioner's bank under Section 29 of the APGST Act for recovery of the disputed tax and hence the present writ petition with the prayer as follows :

> "It is prayed that the Hon'ble Court may be pleased to issue a Writ of Certiorari or any other appropriate writ or order or direction quashing the order of the 3rd respondent in CCT's Ref.No. LIII(1)/918/2005, dated 12.9.2005 refusing to order stay of recovery of disputed tax levied by the 2nd respondent for the assessment year 1998-99 under the APGST Act as illegal, arbitrary and unjustified as well as the notice of the 1st respondent issued under Section 29 of the APVAT Act as illegal and unauthorized and consequently restrain the 1st respondent from taking any coercive steps for collection of disputed tax of Rs.5,60,230/- pending disposal of the appeal before the Sales Tax Appellate Tribunal."

Heard the learned counsel for the petitioner and the learned Government Pleader.

In view of the pendency of the appeal before the Tribunal, we deem it appropriate to allow the writ petition at the admission stage subject to the condition that the petitioner deposits half of the tax demanded within a period of four weeks from today and on such payment the respondents are directed not to collect the balance of the tax pursuant to the revisionary order of the 2nd respondent dated 27.5.2005 pending finalisation of the appeal of the petitioner before the Sales Tax Appellate Tribunal. No costs.

J.CHELAMESWAR,J

M.VENKATESWARA REDDY,J

knk

Dt : 28.9.2005